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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/771,719

02/03/2004

Edward J. Simburger

D-487

4138

43499

7590

08/06/2008

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EXAMINER

TRINH, THANH TRUC

ART UNIT

PAPER NUMBER

1795

MAIL DATE

DELIVERY MODE

08/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/771,719</p>	<p>Applicant(s) SIMBURGER ET AL.</p>	
	<p>Examiner THANH-TRUC TRINH</p>	<p>Art Unit 1795</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Nam X Nguyen/
Supervisory Patent Examiner, Art Unit 1753

Continuation of 3. NOTE: According 37 CFR 1.121 (c), the text of any added subject matter must be shown by underlining the added text. Applicant's amendment is non-compliant as added term "as" in claim 1 is not underlined. In addition, new limitation "as the inflatable bladder is inflated" added in claim 1, and "uncured resin disposed between the top and bottom films" added to claims 4, 10, 11, 13, 16 raise new issues and require further consideration and search.

Continuation of 11. does NOT place the application in condition for allowance because: The declaration filed on 6/12/2008 under 37 CFR 1.131 is insufficient to overcome the AIAA reference. The declaration filed after final rejection, but provide no good and sufficient reasons why the declaration is necessary and was not earlier presented. The declaration also does not clearly set forward that the others did not materially contribute to the subject matter of the invention. Therefore, the rejection under AIAA reference is maintained.

Rejection of claims 1, 13 and 16 as being anticipated by Wallsten: Applicant argues that there is no hinge in Wallsten's reference and the top and bottom layers do not define the angular position. The argument is not deemed to be persuasive. As seen in Figures 1-2, 5 and 6, Wallsten discloses a hinge (or inflatable channel 2) for positioning a left and right panels. As tubes 2 inflated, walls 3 with extensions from top and bottom layers (or middle portion of wall 3 and film 6) make an angular position. Therefore the top and bottom circumferential lengths are for angularly position the left and right panels.

Rejection of claims 13 and 16 as being anticipated by Kaji: Applicant argues that rod (or hinge) in Kaji does not determine the angle of bend but is used to form a bend. However this argument is not deemed to be persuasive. It is the Examiner's position that the rod is used to form a bend between the left and right panel, therefore the rod is for positioning a left and right panel.

Rejection of claims 1-9 and 14 as being obvious over Kaji in view of Struble. Applicant argues the combination of Kaji in view of Struble is impractical because there is no way to combine a frame for a rod. The Examiner respectfully disagrees. As stated in the rejection, the rod of Kaji is obviously replaced by an inflatable tube of Struble, not the entire a frame.

The rest of Applicant's argument appears to be directed to new limitations or limitation that are not within claims rejected by the references.